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September 7, 2023

Via ECF

Hon. John G. Koeltl
United States District Judge

Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, NY 10007

Re: Motion to Adjourn Initial Conference and Extend Time to Serve
Escobar v. Correa, et al. Case No. 22-cv-8434

Your Honor:

We represent Plaintiff Tyrel Escobar in the above referenced matter, and write to respectfully request that the Initial Conference, currently scheduled for September 14, 2023, be adjourned by at least 60 days. Ludington and Sheehan, the only Defendants who have answered, consent to this adjournment. Plaintiff also asks that this Court extend the time to serve retired NYPD officers Correa and Rosado, as it appears the prior service at the NYPD's headquarters was not sufficient.

Today, we spoke to Assistant United States Attorney Adam Gitlin and learned that his office requires additional, separate service, with a summons naming the U.S. Attorney, before proper service is effectuated. I am further informed by Mr. Gitlin that the Department of Justice is still determining if they will represent Defendants Correa, Rosado, Kamrowski, and/or Kushi, and that the agency cannot complete this process until this additional service is effectuated.¹

BACKGROUND

As Your Honor is aware, undersigned counsel has been working with interested parties the City of New York and the United States Attorney's Office over the last several months in an effort to identify and serve each of the individual Defendants in this matter. After each Defendant was identified, Plaintiff amended to add the new parties and promptly served each individual:

1. Service was accepted on behalf of Det. Luis Correa by Bono Giorgio at One Police Plaza on May 30, 2023, *see Affidavit of Service* (Doc. 26). Det. Correa has not appeared or answered as of the date of this letter.
2. Service was accepted on behalf of Det. Jamie Rosado by Bono Giorgio at One Police Plaza on June 15, 2023, *see Affidavit of Service* (Doc. 35). Det. Rosado has not appeared or answered as of the date of this letter.

¹ A copy of this letter was provided to Mr. Gitlin prior to filing to confirm his agency's position, and edits were applied accordingly.

3. Service was accepted on behalf of Sgt. Declan Ludington and Det. Ryan Sheehan by Bono Giorgio One Police Plaza on July 6, 2023, *see Combined Affidavits of Service* (Doc. 42 at 1–2). Ludington and Sheehan answered the complaint on July 27 (Doc. 43).
4. Service was accepted on behalf of U.S. Marshals Kevin Kamrowski and Eric Kushi by Osrick Gordon at the U.S. Attorney’s Office at 86 Chambers Street on July 6, 2023, *see Combined Affidavits of Service* (Doc. 42 at 3–4). Neither Kamrowski or Kushi have answered or appeared as of the date of this letter.

Mr. Gitlin represented in an email dated June 15, 2023 that he could accept service of the Second Amended Complaint on behalf of Kamrowski and Kushi, as he obtained their consent to do so. The officers were subsequently served with the operative Third Amended Complaint at the U.S. Attorney’s Office at 86 Chambers Street on July 6. (Doc. 42 at 3–4).

During our conferral today, Mr. Gitlin stated that, because Rule 4(i)(3) requires personal service on each individual defendant as well on the United States, the agency’s position is that service is not complete until a separate summons and complaint is served on the United States via the U.S. Attorney’s Office at 86 Chambers Street. Plaintiff has therefore requested that the Clerk provide an additional summons directed at the U.S. Attorney’s Office (Doc. 45).

Additionally, while Defendants Correa and Rosado were previously served at One Police Plaza, Mr. Gitlin informed us that, to his knowledge, these officers are no longer employed by the NYPD. Although the Department of Justice is still determining whether it will represent Defendants Correa and Rosado in this matter, Mr. Gitlin has offered to seek the consent of Correa and Rosado to accept service on their behalf. Alternatively, in the event that Mr. Gitlin is unable to obtain this consent, Plaintiff intends to seek the current addresses of these former officers with a subpoena to the NYPD Pension Fund. *See Ex. A.*

REQUEST FOR RELIEF

Given these outstanding issues regarding service, Plaintiff has several requests:

First, Plaintiff requests an adjournment of next week’s conference for at least 60 days, given that, once service is complete, the Marshals/Deputized officers will have 60 days to answer. After the Clerk issues the new summons to the U.S. Attorney, Plaintiff will promptly serve the same.

Second, Plaintiff asks that the Court so-order the attached subpoena to the NYPD Pension Fund, so Plaintiff can obtain the current addresses of Correa and Rosado. If Mr. Gitlin is able to accept service on the officers’ behalf, Plaintiff will not serve this subpoena. However, Plaintiff requests that the subpoena be so-ordered now so that no further delay is incurred in the event that Mr. Gitlin cannot accept timely service for the officers.

Finally, Plaintiff asks that the time to serve Correa and Rosado be extended by 60 days, to provide time for Mr. Gitlin to seek the officers’ consent to accept service and/or allow time for the NYPD Pension Fund to respond and for Plaintiff to effectuate service on these former officers.

We thank the Court for its consideration of this request.

Respectfully,

A handwritten signature in black ink, appearing to read 'SP', is written above the name Stephanie Panousieris.

Stephanie Panousieris